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<b>TRANSMITTAL FORM</b>  <i>(to be used for all correspondence after initial filing)</i>		Application Number	09/714,882
		Filing Date	Nov 16, 2000
		First Named Inventor	Turner, Jr., C. Alexander
		Group Art Unit	1645
		Examiner Name	To Be Assigned
Total Number of Pages in This Submission	4	Attorney Docket Number	LEX-0091-USA

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24231

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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Lance K. Ishimoto Reg. No. 41,866 Lexicon Genetics Incorporated
Signature	<i>Lance K. Ishimoto by Nancy Stacey Feb 27, 2002</i>
Date	February 27, 2002

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): *Turner et al.*

Group Art Unit: 1646

Application No.: 09/714,882

Examiner: O'Hara, E.B.  
APR 01 2002  
TECH CENTER 1600/2900

Filed: November 16, 2000

Attorney Docket No.

LEX-0091-USA

Title: Novel Human *Notch* Ligand Proteins  
and Polynucleotides Encoding the Same

**RESPONSE TO RESTRICTION AND ELECTION REQUIREMENTS**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

The Examiner is respectfully requested to accept the following response to the Restriction and Election Requirement mailed January 30, 2002 (Paper No. 8), to consider the remarks therein.

**Restriction Requirement**

The Examiner has determined that the original claims are directed to five separate and distinct inventions under 35 U.S.C. § 121, as follows:

- Group I: Claims 1 and 2, said to be drawn to nucleic acid molecules comprising SEQ ID NO:1 encoding the amino acid sequence of SEQ ID NO:2, classified in class 536, subclass 23.5.
- Group II: Claim 3, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:4, classified in class 536, subclass 23.5.
- Group III: Claim 4, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:6, classified in class 536, subclass 23.5.

Group IV: Claim 5, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:8, classified in class 536, subclass 23.5.

Group V: Claim 6, said to be drawn to nucleic acid molecules encoding the amino acid sequence of SEQ ID NO:10, classified in class 536, subclass 23.5.

### **Response to Restriction and Election Requirement**

In response to the Restriction Requirement mailed January 30, 2002 (Paper No. 8), Applicants elect with traverse to prosecute the claims of Group I, comprising Claims 1 and 2, said to be drawn to nucleic acid molecules comprising SEQ ID NO:1 encoding the amino acid sequence of SEQ ID NO:2, classified in class 536, subclass 23.5. Applicants reserve the right to refile claims to the non-elected inventions in one or more future applications retaining the priority date of the present case and the earlier cited priority applications.

Applicants' traverse is respectfully based on the fact that the nucleic acid sequences described (and the amino acid sequences encoded by them) represent splice variants encoded by a single genetic locus. All of the claims in the present invention read on splice variants of a novel human notch protein. One skilled in the art would therefore agree that the sequences share a common utility as well as substantial structural features. In addition, by searching SEQ ID NO:1 (and the amino acid sequence it encodes, SEQ ID NO:2), the Examiner will have effectively searched all of the nucleic acid sequences of the present invention, as nucleic acid sequences of SEQ ID NOS: 3, 5, 7 and 9 are all contained within the nucleic acid sequence of SEQ ID NO:1 and therefore it is Applicants' position that such a search, involving only a single nucleic acid sequence and the amino acid sequence encoded by it, does not represent an undue burden. Applicants believe that SEQ ID NOS: 1, 3, 5, 7 and 9 are more properly viewed as species and thus Applicants further elect the species of SEQ ID NO: 1 for initial examination on the merits. Elected Claims 1 and 2 read on the elected species. Applicants understand their species election is being made solely to expedite examination of the application, and that they are entitled to consideration of additional species upon allowance of a generic claim.

Although Applicants believe that no additional fees are due in connection with this response, the Commissioner is authorized to charge any underpayment or credit any overpayment required with this response to Deposit Account No. 50-0892.

Conclusion

The present document is a complete response to the Restriction and Species Election Requirement. Applicants believe that the claims of the instant application meet all of the conditions for patentability and are in condition for allowance. Accordingly, an early indication of the same is respectfully requested. Should the Examiner have any questions or comments a telephone call to the undersigned Applicants' representative is earnestly solicited.

Respectfully submitted,

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02/27/02  
Date

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